

REMARKS

Claims 1-13 are all the claims pending in the application.

The disclosure is objected to because of the following informalities: Applicant has not provided all of the proper sections of the specification required in the below content. However, Applicant submitted a Preliminary Amendment which includes the proper headings. Thus, this objection is traversed.

Claims 1-3 and 9-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leo (U.S. patent No. 5,419,283) in view of Denesuk (U.S. Patent No. 6,178,922) and Day, et al. (U.S. Patent Publication No. 6,926,916). For the following reasons, Applicant respectfully traverses this rejection.

Applicant notes that the rejection is based on the combination of the teachings of three different prior art documents, i.e. Leo, Denesuk and Day. The mere necessity for the Examiner to rely on three references in an effort to reconstruct the present invention constitutes evidence of unobviousness, all the more so in view of the fact that one of these references - i.e. Day - does not relate to the field of the present invention - namely pet toys - but to a different field - the one of chewing gum, which is typically intended for human consumption and whose incidental consumption by dogs is even considered as dangerous. Accordingly, it is a priori refutable that the above three references may be obviously combined together, and in particular that the reference Day may be obviously combined with the other two references.

Considering now the specific rejection grounds of the Examiner, this latter asserts - noticing the presence of sugar in the toy compositions of Denesuk - that (see page 5, second paragraph) it would have been obvious to one of ordinary skill in the art to modify the teachings

of Leo with the teachings of Denesuk since the modification is merely the addition of attract and flavouring agents to provide a nutritive attractant".

However, the present description affirms that (see page 2, paragraphs two to four) consumption of the chewable toys of the invention by animals prevents the consequences of incorrect dietary habits. In fact, the owners of domestic pets often give them ordinary sweets so that they become accustomed to sweet-flavoured food, which causes serious renal, hepatic and gastroenteric imbalances. In this connection, the toxic action exerted on the organism by the theobromine contained in cocoa and in plain chocolate is relevant. The composition containing isomalt in accordance with the present invention, on the other hand, does not cause any of these damaging effects, whilst satisfying the palate of an animal accustomed to sweet flavours."

Accordingly, it is irrefutable that the use of the sugar hinted by Denesuk would have effects opposite to the intended purposes of the present invention and therefore would not have been taken into consideration by one of ordinary skill in the art. In this respect, the Examiner further alleges that "Day teaches that it is notoriously well-known that isomalt is known sweetening agent and a substitute for sugar". Nevertheless - as already indicated - Day does not relate to the technical field of the present invention, so as it may not be used in order to integrate the teachings of Denesuk. Furthermore, Day merely hints at isomalt among a long list of sweeteners (see col. 8, lines 8-16) intended for human consumption and without any specific emphasis. However, some of these sweeteners — such as xylitol — have been recently acknowledged as poisonous for dogs (see the Internet excerpt herewith enclosed). Accordingly, even assuming arguendo that it would have been obvious for the skilled in the art of chew toys to consider the Day reference in order to integrate the teachings of Denesuk, it would not have been

at all obvious for him to select just isomalt as proper replacement for sugar, in the absence of any specific pointer in this respect. On the contrary, this selection has to be considered as unobvious.


Additionally, the present invention provides specific quantitative ratios among the various components, which are critical for achieving the desired effects and are not even hinted by the cited references. Hence, it is improper to assert that "it would have been obvious through routine tests and experimentation to derive a desired, ratio of garlic and sugar agents to optimize the system". In particular, (see page 3, III paragraph of the present description) "chewable toys according to the invention have also been found surprisingly effective in preventing the development of salmonella in dogs which regularly consume them". This action is apparently due to a synergistic effect of the specific components thereof and it was not at all predictable a priori. Such conclusion is further confirmed by the fact that the Examiner used the expression "sugar agents" (which is not at all proper, since — as indicated above — not all the sugar agents, such as e.g. xylitol may be used for pet consumption), instead of "isomer, which is a critical component of the presently claimed chew toy, obtainable only from an inventive selection.

In view of the foregoing it is submitted that all claims patentably distinguish over the cited art. Applicant notes that in order to allege the unobviouness of certain dependent claims, the Examiner had to apply further documents in addition to the three already used for attacking claim 1. However, the combination of four or more different references in order to attack a given claim is strong evidence of unobviouness, rather than the opposite.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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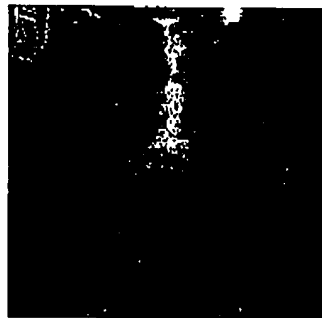
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Chewing Gum Poisons Dog!



One great fear of many pet owners is that something innocuous in our houses can be poisonous to our pets. Now, again, that fear has been realized in the form of something that used to be totally safe, for people and pets. Chewing gum!

Many pet owners are already aware of certain items you should never let

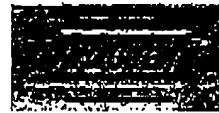
your pet get a hold of. If you don't know already, some of the things that may be toxic to our pets include chocolate, many plants, raisins, grapes, some nuts (macadamia particularly) and even onions. This brief list doesn't even include all the treasures they can find on the street. But until now, chewing gum was not on the list of dangerous things for pets. Our first experience with this new toxic substance came in the form of a 21 month old American Pit Bull named Brooklyn (see photo)

One night Brooklyn got a hold of a pack of sugarless chewing gum. Her guardians thought quickly and called the ASPCA poison control hotline. (888 426-4435). They learned that the sugarless gum was indeed a problem, because it contains a sugar substitute called XYLITOL.

This sugar substitute is not toxic for humans because it does not get absorbed from the intestines and therefore does not affect us. But it is absorbed from the intestine and goes into the blood stream of our pets. And that is where the toxicity comes in.

The affect of Xylitol is to cause the secretion of insulin, which dangerously lowers blood sugar. In addition, it can cause liver failure depending on the quantity ingested. The amount that needs to be consumed to be toxic depends on the substance eaten and the weight of the pet. There is still no hard fast data concerning lethal dose of this substance. .

Low blood sugar can cause lethargy (low energy), weakness, and loss



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of coordination, seizures, and coma. These signs may present themselves soon after the product is ingested.



Fortunately Brooklyn's owners were astute, called poison control and watched her carefully throughout night. In the morning, she seemed to act like herself. To be safe, they brought her to Riverside Animal

Hospital for an exam. The doctors at Riverside knew about Xylitol ingestion toxicity and knew the possible dangers of ingesting it.... and treated her even though she appeared normal.

Sure enough, even without symptoms, Brooklyn's blood sugar was low. If her blood sugar had gone any lower, she could have begun hypoglycemic convulsions. She was kept in the hospital on I.V. fluids with dextrose (sugar) for two days, to maintain her sugar levels at near normal levels. Even 48 hours later, when we slowed the intravenous glucose administration, her blood sugar dropped. Of course, while she was here we checked her for liver problems and fortunately found none.

We are happy to say that her sugar eventually stabilized, she recovered beautifully, and was released from the hospital without any long lasting ill affects from the chewing gum.

The moral of the story is that it pays to become aware of everyday products that can poison your pets. If you are ever unsure about the potential toxicity of a product your pet has ingested, call your veterinarian or the ASPCA poison control center. There is a fee to use the Poison Control Service, but it's worth it.

As veterinarians, we often come across new information either as a result of patient's experience, or through research. What we hope to share with you is some of our more interesting cases so that you may learn about potential hazards and clinical signs before they become critical.

Sincerely,

Steven Kasanofsky, D.V.M., C.V.A.
Phillip Raclyn, D.V.M., C.V.A.

Directors,
Riverside Animal Hospital
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